

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 25, 1998

ASBESTOS ABATEMENT PROGRAMS

PURPOSE OF REPORT

To request a waiver of the repayment provision of the State Asbestos Abatement Program (SAAP) and removal of the repayment provision for the Lease-Purchase Asbestos Abatement Program (LPAAP).

DESCRIPTION

During the period 1987 through 1992, approximately \$7.6 million (\$3.5 million for the SAAP and \$4.1 million for the LPAAP) were subject to repayment as a result of loans to certain districts with small average daily attendance (ADA). In order to qualify for these funds, the district's required contribution had to be in excess of ½ of 1% of the district's budgeted General Fund and Adult Education Fund less capital outlay and debt service. Because of this criteria, a majority of the districts receiving these funds have less than 4,500 ADA.

BOARD POLICY

State Asbestos Abatement Program

As a condition of accepting funds subject to repayment, the district had to agree to repay to the State Asbestos Abatement Fund annually, an amount not to exceed the ½ of 1% amount defined above, for a period not to exceed five years. State Allocation Board (SAB) regulations stipulate that the repayment will cease at the time the loan is repaid or at the end of five years, whichever occurs first. Because of the five year repayment limit, approximately 1/3 of the districts will not repay its loans.

Lease-Purchase Asbestos Abatement Program

The SAB policy pertaining to the repayment of LPAAP funds, which was calculated in manner similar to the State Asbestos Abatement Program, was modified to allow repayment over a ten year period. Because of the ten year repayment provision, approximately ¼ of the districts will not repay its loans.

STAFF COMMENTS

Since most of the districts involved are less than 4,500 ADA and the actual amounts to be collected will be minimal, the financial impact to small districts and the administrative cost to make the collections does not appear to warrant the collection of these loans. Additionally, the burden to repay these funds by small districts to the State Asbestos Fund which can only be used for asbestos purposes which is no longer in high demand, does not seem fiscally prudent.

LEGAL ANALYSIS

State Asbestos Abatement Program

Education Code Section 17588 (b) specifically authorizes the SAB to waive the repayment requirement for any amounts in excess of the otherwise authorized amount of the critical hardship apportionment.

Lease-Purchase Asbestos Abatement Program

Legal Counsel has indicated there is not specific authority under the LPAAP to make apportionments with a condition that such funds be repaid to the State.

RECOMMENDATIONS

1. Waive the repayment provisions for the \$3.5 million of loans from the SAAP as provided by Education Code Section 17588(b).
2. Remove the repayment provisions for the \$4.1 million of loans from the LPAAP.

In considering this item, the Board approved OPSC's Recommendations.